
APPENDIX H

INFORMATION RE: EMISSIONS CREDITS

October 27, 2004
Senate Finance Committee Letter

Question 12

Provide an explanation and documentation demonstrating compliance with TNC's conflicts of interest policy with respect to the GM-TNC Brazil Emissions Agreement (described in TNC's Forms 990 for 1999 through 2001) in which Mr. Smith participated as an officer of General Motors Corporation and its Brazilian affiliate.

Please note that the description of this transaction appears in TNC's Form 990 each year for FY 2000 – 2003, not “1999 – 2001” as stated above.

At the time that the GM-TNC Brazil Emissions Agreement was approved by TNC in April, 2000, TNC's Conflict of Interest Policy required review and approval by TNC's President for a project or matter that involved TNC and a corporation that is “related” to a TNC Board member. In addition, if the matter required approval by the Board itself, the affected Board member would be required to recuse him/herself from participating in the review by and any decision of the TNC Board regarding such project or matter.

In a memo dated February 1, 2000 (copy attached hereto), the TNC staff attorney responsible for the project, disclosed and presented the GM project to TNC's General Counsel and President for approval in accordance with the policy. In the event that Board approval was needed, the memo recommended that Mr. Smith recuse himself from participating in any Conservancy Board decision regarding the Project. Such memo, including its recommended course of action, was approved by both the General Counsel and President on February 2, 2000. (Note, the February 1, 2000 memorandum incorrectly states that Mr. Smith was the Chairman of The Conservancy's Board of Directors. Although Mr. Smith served as a member of the Board of Governors he was never the Chairman of The Conservancy's Board, rather, he was the Chairman and Chief Executive Officer of General Motors Corporation.)

Because TNC's corporate authority in effect at the time, delegated to the Executive Committee of the Board the authority to approve TNC's entering into agreements of this type, it was not necessary to obtain full TNC Board of Governors approval of this particular Agreement. Mr. Smith was not a member of the Executive Committee at the time of approval of the project. Thus, Mr. Smith was not required to be involved in the review and approval of this Agreement. The Agreement was reviewed and approved by the Executive Committee on April 25, 2000.

In accordance with TNC's standard practice at that time, members of the Conservation Committee of the Board were also informed about conservation projects for which corporate approval by the Executive Committee was being sought and given an opportunity to comment on or express an opinion regarding such projects. Mr. Smith, as a member of the Conservation Committee at the time, received the same materials about the slate of projects for which approval from the Executive Committee was being sought.

Although they did not vote to approve or disapprove projects, members of the Conservation Committee provided views to the Executive committee via ballots. Mr. Smith's ballot regarding projects before the Executive Committee and TNC's internal conflict memorandum with respect (copies attached hereto) indicate that Mr. Smith recused himself from taking a position on this project at the time that the Agreement was presented for formal corporate approval the Executive Committee.

Each IRS Form 990 return filed for FY 2000-2003 discloses this transaction and notes that Mr. Smith was not involved in the transaction.

Did TNC seek the advice of outside counsel with respect to the tax consequences to TNC of the emissions transactions, or in the case of the GM emissions arrangement, any conflicts of interest issues?

TNC did not seek the advice of outside counsel with respect to the tax consequences to TNC of the emissions transactions, or in the case of the GM emissions arrangement, any conflicts of interest issues. As explained in prior submissions to the Finance Committee, all conflicts of interest issues were subject to advance legal review by TNC's General Counsel. In addition, under TNC's policies at the time, all contracts and agreements were subject to advance review and approval by the TNC legal department. This review included an analysis of all relevant legal issues, including tax law issues.

Please describe TNC's position regarding the tax consequences to TNC of the GM emissions arrangement.

Under the GM-TNC Agreement, GM provided \$10 million to TNC to implement the Brazil Atlantic Rainforest Restoration project in the Guaratuba region of Brazil, an area of recognized biodiversity importance and designated as a UNESCO world biosphere reserve. The funds have been used by TNC for land acquisition and habitat restoration in this area. Under the agreement, GM retained the right to seek approval from the appropriate international institution(s) to obtain carbon offset credits for climate mitigation that may be generated from the project. At the time of the agreement, no legal or commercial framework existed to secure such credits (indeed, no such framework exists today). TNC did not guarantee the creation or certification of any such credits nor did it assume any liability for the failure of such credits to be created in the future.

The primary purposes of the agreement are to "...promote the protection of plants and animals, sequester carbon from the atmosphere, otherwise reduce so-called greenhouse gases in the atmosphere and achieve sustainable development through community conservation...." Clearly, implementation of the agreement is in furtherance of the mission of TNC in "protecting the plants animals and natural communities that represent the diversity of life on earth and the lands and waters they need to survive..." and is without a doubt, directly and substantially related to the exempt purpose of TNC.

In accordance with the previously described policy with respect to advance review and approval by the legal department, the tax and legal aspects of the transaction were reviewed by the TNC legal department when the transaction was approved. That review indicated that there were no tax consequences to the Conservancy. The review concluded that this project taken as a whole was consistent with TNC's 501(c)(3) exempt and charitable purposes.

Provide a description of the AEP-TNC-Pacific Corp-BP-Bolivia emissions arrangement relating to a Bolivian tropical forest, the 1997 Noel Kempff Mercado Climate Action Project.

The Noel Kempff Mercado Climate Action Project was designed to expand the Noel Kempff Mercado National Park through the retirement of logging rights on 1.6 million acres of government-owned land. With incorporation of that land into the park, Noel Kempff Mercado grew from 2.2 million acres (890,340 hectares) to 3.8 million acres (1.5 million hectares). The funding provided by participants was used to retire the timber concessions, to support the Noel Kempff Mercado National Park management programs, to create long-term financing mechanisms for the park and bordering communities, to carry out sustainable development activities in the communities surrounding the park, to mitigate greenhouse gases in the Earth's atmosphere, and to generate certified offsets for the parties.

Industry participants agreed to provide a total of US\$7 million funding for the implementation of the project through annual payments over a 10-year period.

The breakdown of the industry participants' funding is as follows:

AEP	\$4,750,000
Pacificorp	\$1,750,000
BP	\$500,000

In addition, AEP agreed to provide funding in an amount not to exceed US\$500,000, above the US\$7 million total provided by the industry participants, to cover utilization of advanced technology videography measurement to confirm carbon sequestration by the project. AEP would be entitled to financial credit for any reduction in monitoring and verification costs which are attributable to the use of this technology.

TNC and FAN (Fundacion Amigos de la Naturaleza) agreed to contribute US\$2.6 million¹ for the implementation of the project.

In 2002 the project budget was revised from \$9.6 million to \$10.85 million. This increase was funded by industry participants in the following amounts:

¹ In the comprehensive agreement, the Conservancy and FAN contribution is listed at \$2.5 million. In a 2001 board meeting, that amount was raised to \$2.6 million. There was no amendment to the agreement to reflect this change.

AEP	\$950,000
BP	\$300,000

According to the agreement the parties would receive Certified Offsets² as follows:

- Apportionment to AEP. The equivalent of 2% of offsets accumulated each year during the project term. AEP shall receive this apportionment as consideration for its leadership, financial support in developing the project and for marketing the project to other prospective financial participants.
- Apportionment to the Industry Participants. To industry participants, AEP, BP, Pacificorp, (on a pro rata basis in proportion to their respective financial contributions to the project) the equivalent of 49% of the offsets accumulated each year during the project term.
- Apportionment to FAN and the Government of Bolivia. The equivalent of 20% of the offsets accumulated each year during the project term. Funds obtained through the sale of these offsets shall be contributed to an Endowment Account for the National System of Protected Areas.
- Apportionment to the Government of Bolivia. The equivalent of 29% of the offsets accumulated each year during the project term. Funds obtained through the sale of these offsets are to be invested in Bolivia in accordance with the following priorities:
 - To ensure the financial resources exist to guarantee greenhouse gas mitigation throughout the project term and the generation of certified offsets
 - To support biodiversity protection activities at Noel Kempff Mercado National Park
 - To support activities consistent with Bolivia's National Sustainable Development Strategy
 - To support biodiversity protection activities elsewhere in Bolivia
 - To support current and future climate change mitigation activities in Bolivia pursuant to mitigation obligations that may become applicable.

Apportionment of offsets will transfer to the recipient parties the right to thereafter hold, register or transfer such offsets further, as each such party may independently decide, subject to Bolivian law.

We understand that \$9.6 million reportedly was invested in that deal by the various partners, and that E. Linn Draper, Chairman, President and CEO of AEP, was elected to serve on the TNC Board in October 1999.

² In the agreement Certified Offset is defined as an offsets that has been (1) demonstrated to the Government of Bolivia National Program for Climatic Change pursuant to the then applicable project operating protocols, and the ground rules and guidelines of the Government of Bolivia National Program for Climatic Change, the USJI, and the FCCC and (2) certified by the Government of Bolivia National Program for Climatic Change.

In the 1998 Noel Kempff Mercado Climate Action Project comprehensive agreement industry participants agreed to provide \$7 million and TNC and FAN agreed to provide \$2.5 million to the project. In 2001 TNC added another \$100,000 and in 2002 industry participants agreed to provide another \$1.25 million.

The Noel Kempff Mercado Climate Action Project agreement was finalized and signed on March 9, 1998. In total AEP agreed to provide \$6.2 million to the Noel Kempff Mercado Climate Action Project (in 1998 AEP agreed to provide \$5.25 million and in 2002 AEP agreed to provide an additional \$950,000 to the project).

Linn Draper, Chairman, President, and CEP of AEP, was elected to serve on the TNC Board in September 1999. Dr. Draper's maximum Board term runs through 2008.

Do you have emissions credit arrangements with entities or persons other than GM or AEP? If so, please describe them and provide relevant documentation.

Yes. The emission offsets arrangements and entities involved are listed in the table below.

A narrative description of the emission credit arrangements for each project (except the Noel Kempff Mercado Climate Action Project, for which a description was provided in response to the previous question) follows. Copies of the final, signed comprehensive agreements for each project have been provided as part of this submission.

Agreement	Project description	Entities involved
Noel Kempff Mercado Climate Action Project	Retirement of timber concession on 1.6 million acres and incorporation of land into the national park. Project is located in northeastern Bolivia.	American Electric Power PacifiCorp British Petroleum The Nature Conservancy The Government of Bolivia Fundacion Amigos de la Naturaleza (FAN)
Rio Bravo Carbon Sequestration Pilot Project	Purchase of 14,880 acre tract of endangered tropical forest land and incorporation of land into the Rio Bravo Conservation and Management Area and implementation of sustainable forest	Wisconsin Electric Power Company (now WE Energies) Cinergy Services, Inc. Detroit Edison Corporation (now DTE Energy) PacifiCorp Utilitree Carbon Company ³ The Nature Conservancy Programme for Belize

³ See the end of this document for a list of member companies.

	management. Project is located in northwestern Belize.	
Rio Bravo Carbon Sequestration Pilot Project Expansion	Purchase of 21,000 acre tract of endangered tropical forest land and incorporation into the Rio Bravo Conservation and Management Area and implementation of sustainable forest management. Expansion of project in northwestern Belize.	Wisconsin Electric Power Company (now WE Energies) Suncor Energy, Inc Canadian Occidental Petroleum, Ltd. (now Nexen, Inc) The Nature Conservancy Programme for Belize
Texaco Antonina Pilot Reforestation Project	Restore and protect 2,500 acres of Atlantic Rainforest in southeastern Brazil.	Texaco The Nature Conservancy Sociedade de Pesquisa e Vida Selvagem (SPVS)
General Motors Atlantic Rainforest Restoration Project	Restore and protect 30,000 acres of Atlantic Rainforest in southeastern Brazil.	General Motors General Motors do Brasil Ltda. The Nature Conservancy SPVS
Central and South West Services Guaraquecaba Climate Action Project	Restore and protect 17,000 acres of Atlantic Rainforest in southeastern Brazil.	Central and South West Services (now part of American Electric Power) The Nature Conservancy SPVS
Reforestation and Biodiversity Projects Agreement between The Nature Conservancy and Cinergy Services	Reforestation of 925 acres in Ohio and Indiana.	Cinergy Services, Inc. The Nature Conservancy
Bayou Pierre Floodplain Climate Action Project	Purchase of 400 acres and reforestation of 500 acres of cropland in northwest Louisiana	PowerTree Carbon Company, LLC ⁴ The Nature Conservancy

Rio Bravo Carbon Sequestration Pilot Project

The Rio Bravo Carbon Sequestration Pilot Project was designed to purchase a 14,880 acre tract of endangered tropical forest land and to incorporate the land into the Rio Bravo Conservation and Management Area. The Project also includes the

⁴ See end of this document for list of member companies.

implementation of sustainable forest management. The Project is located in northwestern Belize.

Project funding during the 10-year commitment period is provided by the financial participants (Wisconsin Electric Power, Cinergy Services Inc, Detroit Edison Corporation, Pacificorp, and Utilitree Carbon Company⁵) in the total amount of \$2.6 million. TNC agreed to lend the Financial Participants and the Project, from the TNC Land Preservation Fund US\$1,080,333.00.

In consideration for the TNC Land Preservation Fund Loan the financial participants agreed to repay the principal amount of the Loan, plus interest calculated at 7% APR (compounded monthly) in full over the remaining nine years of the commitment period.

Certified Offsets produced by the project shall be apportioned to the financial participants, pro rata in accordance with the number of project shares held by each such financial participant⁶.

In consideration for the financial participants' monetary support for the project, Programme for Belize assigns, grants, transfers and conveys the registration interest in all offsets produced on the project site to the financial participants in five equal shares (based on each financial participant's monetary contribution), free and clear of all encumbrances, for a period of forty years. Such registration interest includes the exclusive right of each financial participant:

- To be apportioned the certified offsets produced by the project each year, pro rata by share held
- To register apportioned offsets under such governmental programs as may exist at the time of such apportionment (including the U.S. Department of Energy 1605(b) registry)
- To count such apportioned offsets against the financial participant's Climate Challenge or other greenhouse gas commitments or obligations
- To sell or transfer certified offsets once apportioned.

In the event of country emissions credit recognition is allowed under the Framework Convention on Climate Change (FCCC) for joint implementation projects, and an active public commodities or other public trading market develops for the sale or transfer of offsets for monetary value received, the parties will develop by not later than one year following such FCCC country credit recognition an operating protocol consistent with the

⁵ At the signing of the comprehensive agreement (November 1, 1995), there were four financial participants: Wisconsin Electric Power Company with two shares, and Cinergy Services Inc, Detroit Edison, Pacificorp each with one share. On June 28, 1996, Wisconsin Electric Power Company sold one of its shares to Utilitree Carbon Company, which became the fifth financial participant.

⁶ "Certified Offset" is defined in the agreement as an offset that has been formally demonstrated and established under the USJI and the Government of Belize round rules and guidelines.

letter of understanding of June 24, 1995⁷, between Wisconsin Electric Power Company and Programme for Belize, which shall contain procedures for the equitable sharing with Programme for Belize of net monetary profits, if any, resulting to a financial participant from such participant's election to sell or transfer offsets on such public market.

Rio Bravo Carbon Sequestration Pilot Project Expansion

The Rio Bravo Carbon Sequestration Pilot Project Expansion was designed to expand upon the Rio Bravo Carbon Sequestration Pilot Project. The Expansion Project includes the purchase of a 21,000 acre tract of endangered tropical forest land and incorporation into the Rio Bravo Conservation and Management Area and implementation of sustainable forest management. The project expansion is located in northwestern Belize.

The project expansion has been funded by the financial participants (Wisconsin Electric Power Company, Suncor Energy Inc., Programme for Belize, The Nature Conservancy⁸, Canadian Occidental Petroleum Ltd.) in the total amount of US\$3,052,600 which amount has been transferred for use of the project expansion prior to January 1, 1999 or committed to by financial participants prior to January 1, 1999 and financed by TNC in accordance with the promissory notes⁹.

Wisconsin Electric Power Company committed to fund the project expansion in the amount of US\$1,000,000 (exclusive of interest and other finance costs). In accordance with and in exchange for the promissory note made by Wisconsin Electric Power Company, TNC financed this commitment to the project expansion.

Suncor committed to fund the project expansion in the amount of US\$400,000 (exclusive of interest and other finance costs). In accordance with and in exchange for the promissory note made by Suncor, TNC financed this commitment to the project expansion.

On all project expansion disbursement deficit spent by the Conservancy, the Conservancy must pay internal interest calculated at 7% per annum compounded monthly. Project expansion funds, including interest paid on the promissory notes are to be used to satisfy these internal interest charges. Any interest earned by the Conservancy on the promissory notes is to be treated as project expansion funds and disbursed for project expansion.

⁷ Copy of the Letter of Understanding is provided.

⁸ The Conservancy provided US\$452,600 of its own funds in order to satisfy the obligation of Programme for Belize to fund the project expansion. In exchange the Conservancy became a financial participant, with a pro rata share of all offsets based upon the proportion of its financial support. On August 3, 2000 the Conservancy assigned the rights to its share of the offsets to Canadian Occidental Petroleum, Ltd (now Nexen), in exchange for payment of US\$483,000, which was intended to cover the initial cost to the Conservancy (US\$452,600) plus all accrued interest costs (US\$30,400).

⁹ A copy of the promissory notes is provided.

The certified offsets¹⁰ produced by the project expansion are apportioned to the financial participants, in the same proportion that the amount their investment has to the total financial investment of the financial participants as reflected in the sums set forth below:

Party	Financial Support	% of offsets
Programme for Belize	US\$1,200,000	39%
Wisconsin Electric Power	US\$1,000,000	33%
Suncor	US\$400,000	13%
TNC (transferred to Canadian Occidental Petroleum Ltd.)	US\$452,000	15%

In consideration of the financial participants' monetary support for the project expansion, Programme for Belize assigns, grants, transfers, and conveys the registration interest in all offsets produced on the project expansion site to the financial participants in shares proportional to each such financial participants monetary contribution to the project expansion, free and clear of all encumbrances, for a period of forty years starting in 1997 and ending in 2037. Such registration interest includes the exclusive right of each financial participant:

- To be apportioned the certified offsets produced by the project expansion each year
- To register the apportioned offsets under such governmental programs as may exist at the time of such apportionment (including the U.S. Department of Energy 1605(b) registry)
- To count such apportioned offsets against the financial participant's climate challenge or other greenhouse gas commitments or obligations of the parties or to which the parties become subject
- To sell or transfer certified offsets once apportioned

In the event of country emissions credit recognition is allowed under the FCCC for joint implementation projects, and an active public commodities or other public trading market develops for the sale or transfer of offsets for monetary value received, the parties will develop by not later than one year following such FCCC country credit recognition an operating protocol in conjunction with the original project and consistent with the letter of understanding of June 24, 1995¹¹ between Wisconsin Electric Power and Programme for Belize, which shall contain procedures for the equitable sharing with Programme for Belize of net monetary profits, if any, resulting to a financial participant from such financial participant's election to sell or transfer offsets on such public market.

¹⁰ Certified offsets in this agreement are defined as an offset that has been formally demonstrated and established under the USIJI and the governments of Canada and Belize ground rules and guidelines.

¹¹ A copy of the Letter of Understanding is provided.

Central and South West Services Guaraquecaba Climate Action Project

The Central and South West Service Guaraquecaba Climate Action Project was designed to restore and protect 17,000 acres of Atlantic Rainforest in southeastern Brazil.

Central and South West Services (now American Electric Power) agreed to provide the sum of US\$5,391,000 to finance the development of the project and its implementation throughout the forty-year project term.

As long as Central and South West Services is not in default of its duties under the agreement, all certified offsets¹² shall be apportioned Central and South West Services. Such apportionment shall transfer to Central and Southwest Services the right to hold, register, sell, hypothecate, transfer or otherwise dispose of such offsets subject to all applicable legal requirements whatsoever.

The parties to the agreement mutually understand, intend and agree that, subject to applicable legal requirements whatsoever, each offset apportioned, or to be apportioned, to Central and South West Services under this agreement shall constitute an unconditional marketable private right for Central and South West Services, or their successor in interest or permitted assignees, to register the offset, in a metric tons of carbon-equivalent amount equal to the net GHG mitigation represented by such offsets, with the Energy Information Administration Section 1605(b) Registry of the United States government or with any other relevant mechanism, and to count such offset toward compliance by Central and South West Services, or its successor in interest or assignee, with its current or potential future GHG limitation obligation or commitments, voluntary or otherwise.

¹² In this agreement, certified offsets are defined as an offset that has been demonstrated to a certifying entity designated by Central and South West Services pursuant to this agreement and certified by such certifying entity.

General Motors Atlantic Rainforest Restoration Project

The General Motors Atlantic Rainforest Restoration Project was designed to restore and protect 30,000 acres of Atlantic Rainforest in southeastern Brazil.

General Motors agreed to provide a total of US\$10 million for the planning and implementation of the project. General Motors do Brasil Ltda. serves on the project executive committee, but did not contribute funding.

As long as General Motors and General Motors do Brasil Ltda. are not in default of their duties under this agreement, all offsets¹³ shall be conveyed to General Motors providing sufficient time to register such offsets with registries and tracking systems established by relevant mechanisms or certifying entities. Such conveyance shall transfer to General Motors the right to hold, register, sell, hypothecate, transfer or otherwise dispose of such offsets subject to all applicable legal requirements.

The parties to the agreement mutually understand, intend and agree that, subject to applicable legal requirements whatsoever, each offset conveyed, or to be conveyed to General Motors under this agreement shall constitute an unconditional marketable private right for General Motors, or their successor in interest or permitted assignees, to register the offset, in a metric tons of carbon-equivalent amount equal to the net GHG mitigation represented by such offsets, with the Energy Information Administration Section 1605(b) Registry of the United States government or with any other relevant mechanism or certifying entity, and to count such offset toward compliance by General Motors, or its successor in interest or assignee, with its current or potential future GHG limitation obligation or commitments, voluntary or otherwise.

¹³ In this agreement Certified Offset is defined as an offset that has been demonstrated to a mechanism or certifying entity designated by General Motors pursuant to this agreement and certified by such mechanism or certifying entity.

Texaco Antonina Pilot Reforestation Project

The Texaco Antonina Pilot Reforestation Project was designed to restore and protect 2,500 acres of Atlantic Rainforest in southeastern Brazil.

Texaco agreed to contribute a total of US\$3 million to finance the development and implementation of the project throughout the project term.

As long as Texaco is not in default of its duties under the agreement, all offsets generated pursuant to the agreement shall be conveyed to Texaco. Such offsets shall be conveyed providing sufficient time to register such offsets with registries and tracking systems established by relevant mechanisms or certifying entities. Such conveyance shall transfer to Texaco the right to hold, register, sell, hypothecate, transfer, or otherwise dispose of such offsets subject to all applicable legal requirements whatsoever.

The parties to the agreement mutually understand, intend and agree that, subject to applicable legal requirements whatsoever, each offset conveyed, or to be conveyed to Texaco under this agreement shall constitute an unconditional marketable private right for Texaco, or their successor in interest or permitted assignees, to register the offset, in a metric tons, or other acceptable unit measure, of carbon-dioxide equivalent amount equal to the net GHG mitigation represented by such offset, with the Energy Information Administration Section 1605(b) Registry of the United States government or with any other relevant mechanism or certifying entity, and to count such offset toward compliance by Texaco, or its successor in interest or assignee, with its current or potential future GHG limitation obligation or commitments, voluntary or otherwise.

Reforestation and Biodiversity Projects Agreement between The Nature Conservancy and Cinergy Services

The Reforestation and Biodiversity Projects Agreement between The Nature Conservancy and Cinergy Services was developed to reforest 925 acres in Ohio and Indiana. Cinergy agreed to provide \$500,000 to fund reforestation projects in Ohio and Indiana.

Registration interest in and ownership of all net atmospheric carbon dioxide sequestered, offset or reduced as a result of each and every project resulting from the agreement, shall be owned and held in perpetuity by, and be the sole property of Cinergy to do with as Cinergy, in its sole discretion, determines. For the purposes of the agreement, registration interests means the right accorded to Cinergy under any other terms of the agreement, and Section 1605(b) of the United States Energy Policy Act of 1992, and other similar agreements, programs, laws, regulations, and systems as may presently exist, or hereafter be established under the laws of the United States to be apportioned, claim, formally register or otherwise obtain environmental credit for all registration interest in net carbon dioxide sequestered, offset or reduced under the agreement.

Bayou Pierre Floodplain Climate Action Project

The Bayou Pierre Floodplain Climate Action Project was designed to purchase 400 acres and reforest 500 acres of cropland in northwest Louisiana. The land will be placed in long-term protection.

PowerTree Carbon Company agreed to pay \$424,520 to finance the development of the project.

PowerTree Carbon Company retains exclusive ownership of the emissions reductions¹⁴ resulting from the project.

¹⁴ In the agreement emission reduction is defined as one ton of carbon-equivalent greenhouse gas emissions demonstrated to be mitigated, reduced, avoided, sequestered or fixed in any calendar year and any associated credits, rights, authorizations permits, or other benefits, including but not limited to any rights with respect to any database maintained pursuant to section 1605(b) of the Energy Policy Act of 1992 or any successor statute.

Members of Utilitree Carbon Company

Allegheny Energy
Alliant Energy
American Electric Power Company
Ameren
Baltimore Gas & Electric Company
Central Illinois Light Company
Cinergy Corporation
CLECO
Conectiv
Detroit Edison Company
Duke Energy
Duquesne Light Company
Dynergy
Empire District Electric Company
Entergy Services, Inc.
EPCOR
FirstEnergy
Florida Power & Light Company
General Public Utilities Corporation
Hawaiian Electric Co., Inc.
Kansas City Power & Light Company
Nevada Power Company
New York State Electric & Gas Corporation
Northern Indiana Public Service Company
PacifiCorp
PG&E National Energy Group
PPL
Public Service Electric & Gas Company
Sierra Pacific Power Company
South Carolina Electric & Gas Company
Southern Company
Tampa Electric Company
Tennessee Valley Authority
TransAlta Corporation
Tucson Electric Power Company
TXU
UtiliCorp
Western Resources, Inc.
Wisconsin Energy
Wisconsin Public Service Corporation

Members of PowerTree Carbon Company, LLC

American Electric Power Company, Inc.
Arizona Public Service Company
Cinergy Climate Change Investments, LLC
CIPSCO Investment Company (Ameren)
Conectiv Energy
Detroit Edison Company
Diversified Lands LLC (Cleco)
Duke Energy Corporation
Entergy Arkansas, Inc.
Exelon Generation Company, LLC
First Energy Generation Corp.
Kansas City Power & Light
Oglethorpe Power Corporation
Oklahoma Gas & Electric
Peabody PowerTree Investments, LLC (Peabody Energy)
Progress Energy EnviroTree, Inc.
PNM Resources, Inc. (Public Service New Mexico)
PSEG Services Corporation
Reliant Resources, Inc.
Tennessee Valley Authority
TXU Generation Company LP
Virginia Electric & Power Company
We Energies
Wisconsin Public Service Corporation
Xcel Energy Ventures Inc

April 21, 2005
Senate Finance Committee Letter

Question 10

Please explain the process pursuant to which TNC became involved in the various emissions credit or allowance arrangements. Did TNC approach the financial participants, was TNC approached by the financial participants, or were these arrangements structured and marketed by third parties such as law firms, accounting firms, or consultants. Please describe this process with respect to each of the eight arrangements you have reported to the Committee

It is important to note that the projects described herein provide rights to prospective carbon benefits (also known as carbon dioxide (CO₂) offsets); it is incorrect to say at this time that any of the projects have generated "emissions credits or allowances." None of these projects or reductions and emissions have yet been certified or used to help participating companies comply with current regulatory programs that limit CO₂ emissions. At this point, participating companies have voluntarily supported these conservation projects for a number of reasons including for the purposes of obtaining rights to CO₂ benefits to meet a company's own internal emissions reduction goals, possible use in future regulatory regimes, experimentation and learning about carbon sequestration methods and verification, and achieving conservation results. Some of the companies involved in this work have registered reductions in voluntary registry programs (e.g. the Department of Energy 1605(b) program and the Chicago Climate Exchange). However, the projects reported herein have not resulted in officially recognized allowances to emit pollution elsewhere.

The Conservancy's initial experience with climate change projects grew slowly out of an experimental project undertaken with Wisconsin Electric Power in 1995. Subsequent to that project, the Conservancy's work in this area became more formalized and the Conservancy began seeking other entities to participate in similar projects. Thus, the Conservancy has categorized its work in this area as being in two phases: Phase I: Learning from Specific Project Experience and Phase II: Active Project Development and Marketing.

It is fair to say that the conservation results that have been achieved with the funding provided under the terms of these agreements would not have happened otherwise and that significant threats to the loss of biodiversity at these sites has been reduced or eliminated as a result of these arrangements. It is also important to remember that each of the properties identified as conservation sites under these climate change arrangements were selected based on a scientific assessment and strategic analysis of the

biological features and their relative importance to achieve recognized conservation objectives.

Phase I: Learning from Specific Project Experience

Rio Bravo Carbon Sequestration Pilot Project, Belize Agreement executed November 1, 1995

This project represents the Conservancy's first formal introduction to the concept of working with companies interested in reducing or mitigating their CO₂ emissions footprint through the beneficial activities involved in land conservation and habitat protection. Though the Conservancy and partners had been doing conservation work in the Rio Bravo region previously, the Conservancy had not considered the particular approach of securing funds from carbon emitters to offset such emissions by making payments for activities that would result in carbon being stored or sequestered. This first project was conceived in discussions between a Conservancy staff person and an attorney colleague who had been working with Wisconsin Electric Power Company (now WE Energies.) The two discussed the prospects for using funding from companies which were seeking to reduce CO₂ emissions through appropriate mitigation actions such as forest protection to accomplish important biodiversity conservation project goals. The two discussed the feasibility of a project in which WEPCO might play a financial role in such a project.

Although the Conservancy did not have any experience using this funding mechanism to support its habitat conservation projects, the Conservancy did have a long-standing goal to find ways to better capture the economic value of ecosystem services provided by TNC's work in habitat conservation. Carbon sequestration and storage is one of the values provided to society, so the Conservancy found the project concept and the prospects of working with a funder such as WEPCO as having great potential. The Conservancy identified an opportunity in Belize where a land protection project would help both to reduce CO₂ emissions and to achieve significant biodiversity benefits. The Conservancy formally approached WEPCO with the specific project idea and the company indicated a willingness to support the project. However, because WEPCO was not in a position to finance the full project cost, the Conservancy and WEPCO sought and found additional industry support for the project.

As indicated in previously submitted materials, because of the financial support obtained under this agreement, the Conservancy and our partner organization, The Programme for Belize were able to protect 14,880 acres of highly threatened tropical forest that is home to a myriad of important plants and animals, including the black howler monkey, and jaguar. The group of power companies that provided funding was able to voluntarily reduce gases that cause global warming. Finally, the successful completion of this initial project indicated that there might be potential for the Conservancy to use this funding mechanism with other project participants.

Phase II: Active Project Development and Marketing

After this initial experience, the Conservancy began to identify other possible projects where TNC's conservation goals could be met through this funding mechanism and to identify other possible project funding participants. The Conservancy believed that this funding could be applied to conserving forests at a number of priority international conservation sites identified by the Conservancy that would contribute to TNC's mission of preserving the diversity of life on earth.

After identifying these important conservation projects, TNC then collaborated with outside scientific experts to better quantify the potential amounts of emissions reductions that might result from the forest protection. TNC sought the advice of a third-party climate change expert, Mark Trexler of Trexler and Associates (now Trexler Climate and Energy Services). Trexler reviewed TNC's international conservation priority sites and determined which, if any, of the site based forest protection work for which TNC needed financial support would, if funded, result in measurable reductions in CO₂. Trexler identified a number of projects that met the carbon sequestration criteria.

Using TNC project descriptions, cost information, and estimated CO₂ reductions, the Conservancy then began to actively market the projects to potential financial participants, principally electric power and utility companies. TNC also submitted many of these same project proposals to the U.S. Initiative on Joint Implementation for its consideration and possible approval. TNC marketed these project proposals through presentations at conferences and by setting up meetings with potential contributors.

Over time, TNC also began to look at options for reducing emissions by sequestering carbon through reforestation activities, not just through forest land acquisition. TNC also found that there were suitable projects that could be developed in the U.S. to meet TNC's conservation goals and the carbon sequestration criteria. TNC's work to identify feasible projects in the U.S. has been and continues to be funded in part by a grant from the U.S. Dept of Energy.

In this phase of the Conservancy's approach to carbon sequestration/habitat protection/reforestation projects, the following projects were completed and are presented chronologically:

Noel Kempff Mercado Climate Action Project, Bolivia Agreement executed March 9, 1998

Noel Kempff is home to a number of unique species including the jaguar, giant river otter, and nine species of macaw. The Park itself encompasses five important ecosystems, ranging from Amazonian rainforest, gallery forest, and semi-deciduous tropical forest to flooded savanna and cerrado. On April 3, 2003, The John F. Kennedy School of Government at Harvard University presented the 2003 Roy Family Award to

the Noel Kempff Mercado Climate Action Project in Bolivia. The award was established to recognize an outstanding effort by public and private sector organizations working together to protect our environment or preserve uniquely valuable natural resources.

The Conservancy began working in the area near the Noel Kempff Mercado National Park in the late 1980s. At that time the park was only half the size it is today. The other half was being logged legally under concessions purchased from the Bolivian government. While the government, the Conservancy, and a local conservation partner organization, Fundación Amigos de la Naturaleza (FAN,) were interested in expanding the park, funding was needed to purchase the logging rights.

The TNC project screening exercise had indicated that cessation of logging activities on 1.6 million acres of land and the incorporation of those lands into the existing park would result in substantial CO₂ benefits. TNC began to share the Noel Kempff project idea with various companies, including American Electric Power (AEP), that TNC believed might have an interest in carbon offsets and AEP was, in fact, interested in supporting the park and obtaining possible carbon offsets. However, AEP was not able to support the total project costs; AEP and TNC together actively wrote letters to and met with a number of other companies that might be interested in supporting the project. Two other project participants, Pacificorp and British Petroleum, ultimately also decided to provide the funds needed to complete the project agreement.

Reforestation and Biodiversity Projects Agreement between The Nature Conservancy and Cinergy Services, Ohio and Indiana.
Agreement executed January 5, 1999

The Edge of Appalachia Preserve is one of the most biologically diverse collections of natural systems in the Midwestern United States. It is a nationally recognized ecologically significant preserve complex encompassing 12,000 acres of rugged woodland, prairie openings, waterfalls, giant promontories and clear streams.

The Conservancy initiated discussions with Cinergy about general organizational financial support. After discussing a number of proposals, The Conservancy found that Cinergy was most interested in the idea of supporting a carbon sequestration project. TNC proposed that a project of mutual interest, reforestation activity for biodiversity and carbon sequestration at a number of sites within Indiana and Ohio, would be developed by the Conservancy and funded by Cinergy. Reforestation activities using this source of funding have since occurred at several project sites in the area, including at the Edge of Appalachia Preserve.

Rio Bravo Carbon Sequestration Pilot Project Expansion, Belize
Agreement executed August 31, 1999

When some 21,000 acres of land became available for purchase to expand and better integrate the management of the Ro Bravo protected area, the Conservancy and TNC's conservation partner, Programme for Belize, sought to find the funding for the

acquisition costs. The land purchase would help to better connect the different parts of the park created through the first Rio Bravo conservation project. TNC actively sought funding from numerous companies to cover the land costs and ultimately secured the needed project funding from WEPCO, Suncor Energy, Inc., and Canadian Occidental Petroleum. Ltd.(now Nexen, Inc.)

Central and South West Services Guaraquecaba Climate Action Project, Brazil
Agreement executed March 18, 2000

Brazil's Atlantic Forest is recognized by UNESCO as one of the planet's most important priorities for conservation and is designated a World Biosphere Reserve. More than half of its tree species and nearly three-quarters of its other plants are found nowhere else on earth. Though most of the Atlantic Forest has been lost, at least 15 species of globally endangered birds as well as a recently discovered primate – the black-faced lion tamarin – survive in its remnants. Aggressive forest protection and reforestation to enlarge the protected habitat area is needed to ensure survival of these species.

The Conservancy developed a project concept to protect and restore 17,000 acres of ecologically critical forests in the Atlantic Forest region of Brazil that would substantially and measurably reduce CO₂. After developing the project concept, TNC actively sought and secured meetings with numerous companies to attract funding for forest protection and restoration in the area. Central and South West Services, Inc. (CSW), an electric utility company, expressed interest in the work and after a visit to the site eventually funded the project.

General Motors Atlantic Rainforest Reforestation Project, Brazil
Agreement executed June 23, 2000

This project is similar in concept and is located in close proximity to the project funded by Central and South West, Inc. The Conservancy actively marketed the project concept to General Motors and others. After repeated visits and meetings, General Motors made the decision to provide financial support to this project that resulted in the restoration and protection of approximately 30,000 acres of critically important forests.

Texaco Antonina Pilot Reforestation Project, Brazil
Agreement executed December 12, 2000

This project is similar in concept and is located in close proximity to the other projects in the Atlantic Forest of Brazil. The Conservancy actively marketed the project concept to Texaco and others. After repeated visits and meetings, Texaco made the decision to provide financial support to this project that resulted in the restoration and protection of 2,500 acres of critically important forests.

Bayou Pierre Floodplain Climate Action Project, Louisiana
Agreement executed April 19, 2004

D-21

The Red River Valley represents a historic and critical migration corridor for migratory birds funneling out of North America to the Gulf Coast and beyond to as far as Tierra del Fuego in South America. The Red River Valley provides habitat for numerous wildlife species that require large, contiguous forests such as the red wolf, the Louisiana black bear, and many bird species. In order to achieve conservation goals for these species, it is important to undertake reforestation activities to enlarge and enhance already protected habitat in the area.

In April 2002, Utilitree Carbon Company requested proposals for carbon projects from several organizations, including The Nature Conservancy, The Conservation Fund, and Ducks Unlimited. The Nature Conservancy responded to this request for proposals with a project that sought funding for the Bayou Pierre project. In June 2003, PowerTree Carbon Company was created, as a successor organization to Utilitree Carbon Company. The Bayou Pierre Climate Action Project was funded by PowerTree Carbon Company - based on the TNC proposal submitted to and requested by Utilitree Carbon Company. PowerTree funded five other similar projects that were proposed by different organizations.

Also, please explain how the approximately \$35 million official commitments made by the various financial participants in the emissions arrangements was reported by TNC on its Forms 990 (contributions, program service revenue, other).

Under written guidance received from its outside accountants in 1998, The Nature Conservancy has treated the majority of payments under Climate Change Projects on its Form 990 as contribution revenue, line 1. In a few cases where the financial obligations of the participating contributors to make payments to a project over time were secured by a note receivable, such obligations were reported on Form 990 as Notes Receivable.

Has TNC completed, or is TNC involved in negotiations involving, any other emissions credit or allowance arrangements not previously reported to the Committee?

The Conservancy continues to work on climate change projects to advance our conservation goals. The following two projects are in current negotiations.

Cat Island Climate Action Project – Detroit Edison, Louisiana

Cat Island contains the highest density of old-growth bald cypress trees left in the Lower Mississippi Valley with literally thousands of trees exceeding eight feet in diameter. This forest contains the world champion bald cypress tree, the largest tree in the United States east of the Sierra Nevada Mountains, which measures 53 feet in circumference. The site is home to a large variety of wildlife species including river otters, giant alligator snapping turtles, nesting herons and egrets, an array of songbird species and the federally threatened Louisiana black bear. Reforesting areas adds to and buffers the old-growth habitat at Cat Island and reduces the threat of habitat destruction.

D-22

The Conservancy has approached Detroit Edison with the proposed project in which the utility would make a payment which would be used for land protection/reforestation purposes. On April 14, 2005, the Conservancy signed a letter of intent with Detroit Edison to fund reforestation activities on land around the Cat Island National Wildlife Refuge, in Louisiana. Detroit Edison will receive the rights to carbon sequestered from the reforestation activities.

Rio Blanco Climate Action Project - World Bank BioCarbon Fund, Dominican Republic

Rio Blanco is located in the Madre de las Aguas Conservation Area, which has a unique assemblage of species with high rates of endemism. Over 90% of amphibians and reptiles, 50% of butterflies, 35% of birds and 40% of plants in Madre de las Aguas are found only in the Dominican Republic. Reforestation and protection of existing forests helps abate the significant deforestation threat occurring in and around the site.

The Conservancy has submitted a proposal to the World Bank BioCarbon Fund to provide funding to protect forested and reforested areas within and around Juan B. Perez Rancier/Valley Nuevo National Park. BioCarbon Fund project participants will receive the rights to carbon sequestered which may arise from the project activities. The project proposal was tentatively approved on March 30, 2005.

D-23

Carbon Investments not Charitable Contributions

Contribution revenue is reported by the Conservancy on Line 1, page 1 of its Form 990, which line reads "Contributions, gifts, grants, and similar amounts received." These contributions, gifts, and grants can be unrestricted, temporarily restricted (generally as to purpose), or permanently restricted (generally for endowments). The contributions can be in the form of cash, stock, gifts of land (both conservation land and trade lands), and other tangible goods (such as trucks, PCs, etc). The carbon sequestration revenues (included in this category of revenue) are considered temporarily restricted contributions or grants; i.e., they are restricted as to their purpose - TNC must spend them on carbon sequestration projects, which furthers our mission in a specified way.

Whether these contributions are treated as "charitable contributions" depends on the taxpayer's own characterization of such a payment not on the reporting of such contributions by the recipient. As the recipient of such a contribution for a designated carbon sequestration project, The Nature Conservancy has never sent letters or other reports representing or acknowledging that such contributions were to be characterized as a charitable contribution. The Conservancy has provided letters to thank the investors for their support related to the specific project, an example of which is attached. These letters are to be distinguished from the Conservancy's standard acknowledgement letter to a donor who has made a charitable contribution, a sample of which is attached.

In each of the carbon sequestration projects reported to the Committee, the Conservancy has orally told the company to consult with their own lawyers as to the proper characterization of the payments. In addition, the Conservancy has orally represented to the project participants that, because of the retained rights to the carbon benefits, such payments would not be able to be reported as charitable contributions.

To best of the Conservancy's knowledge, none of the project investments made in the carbon sequestration projects reported the Committee has been reported as a charitable contribution. Moreover, it is the Conservancy's understanding that the funds for the General Motors project in particular, came from GM's North American operations budget rather from GM's charitable foundation.

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John C. Sawhill
President & Chief Executive Officer

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January 13, 2000

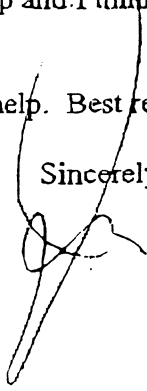
Mr. Jack Smith
Chairman, Chief Executive and President
General Motors Corporation
100 Renaissance Corporation
Post Office Box 100
Detroit, Michigan 48265-1000

Dear Jack,

I wanted to formally thank you for General Motors' decision to proceed with the project development phase of the Atlantic Rainforest Climate Action Project in Brazil and for the \$500,000 check we received today to begin that work. General Motors has been a tremendous supporter of The Nature Conservancy under your leadership and I think this project will create a lasting legacy from our relationship.

Thanks again for all your help. Best regards.

Sincerely,



JCS/mc



W. William Weeks
Executive Vice President

International Headquarters
4245 North Fairfax Drive
Suite 100
Arlington, Virginia 22203-1606
TEL 703 841-2023
FAX 703 841-0278

July 13, 2000

Mr. Jack Smith
Chairman of the Board
General Motors Corporation
300 Renaissance Center
MC 482-C39-B10
P.O. Box 300
Detroit, Michigan 48265-3000

Dear Jack:

I have just learned that General Motors has transferred \$9.5 million to The Nature Conservancy to allow us to proceed with the Atlantic Rainforest Climate Action Project in Brazil. This is great news indeed, and I would like to thank you again, now, for your role in making it happen. General Motors has been a tremendous supporter of The Nature Conservancy under your leadership. This project, particularly, will create a critically important, and lasting legacy. There is now much work to be done, of course, but the people on the Conservancy team for this project are so enthusiastic about what has already happened that we want to acknowledge at this time the great work put in by Denny Minano and his team – Terry Pritchett and Fred Sciance, in particular.

Again, thanks for all your help. Best regards.

Sincerely,

Cc: Denny Minano, Vice President, Public Policy, General Motors Corporation
Terry Pritchett, Manager, Global Climate Issue Team, Public Policy Center
General Motors Corporation
Fred Sciance, Industry-Government Relations, GM Global Headquarters